

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

BONNIE KERSEY,

Plaintiff,

v.

CIVIL ACTION NO.: 3:17-cv-00567

KROGER LIMITED PARTNERSHIP I,

Defendant.

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA.**

NOTICE OF REMOVAL

NOW COMES the defendant, Kroger Limited Partnership I (hereinafter referred to sometimes as "Kroger"), by counsel, Travis S. Haley, and pursuant to 28 U.S.C. §§ 1332(a), 1391, 1441(b) and 1446, said defendant hereby gives notice that, on the grounds set forth below, it is removing the above-captioned action to the United States District Court for the Southern District of West Virginia, at Huntington:

1. That the plaintiff filed her Complaint in the above-captioned civil action in the Circuit Court of Putnam County, West Virginia, on or about December 2, 2016, where it was assigned the docket number Civil Action No. 16-C-290.
2. That the defendant was served a copy of the Summons and Complaint on December 19, 2016, through the West Virginia Secretary of State.
3. That a copy of the Docket for the above-captioned case, the Summons and Complaint and Plaintiff's first set of requests for admissions, interrogatories and requests for the production of documents which were served upon Kroger are attached hereto as Exhibit A, and incorporated by reference.

4. That said Summons and Complaint and discovery requests constitute all process, pleadings and orders in this action.

5. That in her Complaint, the plaintiff alleges that at all relevant times, she was a resident of Putnam County West Virginia. *See* paragraph number 1 of the complaint.

6. That the defendant, Kroger Limited Partnership I, is a limited partnership created under the laws of Ohio, with its Corporate Headquarters and principal place of business being 1014 Vine St., Hamilton County, Cincinnati, Ohio.

7. That in her Complaint, the plaintiff alleges that she suffered serious injury of a permanent and indefinite nature, pain and suffering and past and future need for medical attention and a loss of future earning capacity.

8. That 28 U.S.C. § 1332 states in pertinent that:

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between -

(1) citizens of different states.

9. That 28 U.S.C. § 1441(b) allows removal of any civil action where, "none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought."

10. That there is diversity of citizenship between the plaintiff and the defendant.

11. That on November 1, 2016, plaintiff's counsel made a settlement demand in the amount of \$175,000.00 and, accordingly, the amount in controversy exceeds the sum or value of \$75,000.00.

12. That pursuant to 28 U.S.C. 1391, venue is proper in the Southern District of West Virginia because a substantial part of the events or omissions giving rise to the claims contained in the Complaint, allegedly occurred in this district.

13. That pursuant to 28 U.S.C. § 1446(d), the defendant is concurrently serving on plaintiff, through her counsel, and also filing in the Circuit Court of Putnam County, West Virginia, a "Notice to Plaintiff and Circuit Court of Filing of Notice of Removal" which includes an attached copy of this Notice of Removal.

14. That the removal of the above-captioned civil action from the Circuit Court of Putnam County to the United States District Court for the Southern District of West Virginia, at Huntington, is proper.

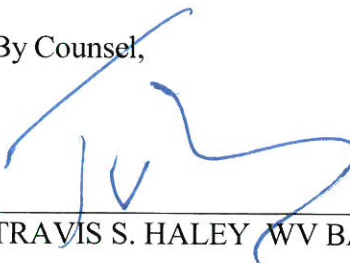
WHEREFORE, the defendant prays that the service and the filing in this Court of this Notice of Removal, and also the service upon the plaintiff and the filing in the Circuit Court of Putnam County, West Virginia, a "Notice to Plaintiff and Circuit Court of Filing of Notice of Removal" (which includes an attached copy of this Notice of Removal) shall effect the removal of this action from the Circuit Court of Putnam County, West Virginia, to the United States District Court for the Southern District of West Virginia, at Huntington.

Dated: January 12, 2017.

Respectfully submitted,

KROGER LIMITED PARTNERSHIP I,

By Counsel,

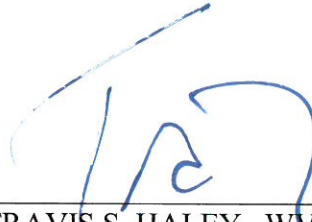


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I hereby certify that on this the 13th day of January, 2017, I electronically filed the foregoing **NOTICE OF REMOVAL** with the District Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants:

Tammy Bowles Raines, Esquire
Tammy Bowles Raines Law Office, PLLC
227 Capitol Street, Suite 201
Charleston, WV 25301



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